

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION AT LAFAYETTE**

ENRIQUE GONZALEZ LEIVA, ROGELIO CORONA TREJO, GABRIEL GARCIA ARROYO, VALENTIN GARCIA ARROYO, RAUL GONZALEZ LEYVA, LUIS LOPEZ CARRASCO, JOSE ALBINO LEYVA, SIMON GONZALEZ HERNANDEZ, and KIMBERLY DELGADO,

Plaintiffs,

v.

WINDY PRAIRIE FARM LLC, KEITH CLUTE, and SHAWN NOWER,

Defendants.

CAUSE NO.: 4:19-CV-87-TLS-JPK

ORDER

This matter is before the Court on Plaintiffs' Motion for Entry of Default Judgment [ECF No. 44] filed on June 24, 2020.

Plaintiffs filed the Complaint [ECF No. 1] in this matter on September 11, 2019. The three Defendants were each served by certified mail on September 16, 2020, [ECF Nos. 8–10], making any Answer due by October 7, 2019. *See* Fed. R. Civ. P. 12(a)(1)(A)(i). None of the Defendants filed an answer or otherwise defended, and, on Plaintiffs' Motion [ECF No. 12], the Clerk of Court entered a default against the three Defendants [ECF No. 13]. Following this entry of default, Plaintiffs filed a Motion for Entry of Judgment [ECF No. 14], which the Court referred [ECF No. 15] to Magistrate Judge Kolar for a damages hearing. Following briefing [ECF No. 21], Magistrate Judge Kolar held a damages hearing on February 12, 2020 [ECF No.

25]. After this hearing, Plaintiffs, while the Motion for Entry of Judgment [ECF No. 14] was pending, submitted a motion [ECF No. 29] for leave to file an amended complaint. On February 27, 2020, the Court granted [ECF No. 30] Plaintiffs' motion for leave to file an amended complaint, and as a result, on June 16, 2020, denied as moot [ECF No. 38] Plaintiff's Motion for Entry of Judgment.

Plaintiff submitted affidavits [ECF Nos. 39–41] demonstrating that each Defendant was served with the Amended Complaint [ECF No. 31] on March 13, 2020, making any Answer due by April 3, 2020. *See* Fed. R. Civ. P. 12(a)(1)(A)(i). None of the Defendants filed an answer or otherwise defended, and, on Plaintiffs' Motion [ECF No. 42], the Clerk of Court again entered a default against the three Defendants [ECF No. 43]. Following this entry of default, Plaintiffs filed the instant Motion for Entry of Default Judgment [ECF No. 44].

In this motion Plaintiffs have requested: (1) entry of default judgment against Defendants for violations of the Trafficking Victims Protection Act (forced labor count only); the Fair Labor Standards Act; the Migrant and Seasonal Agriculture Worker Protection Act; and Indiana state contract law; (2) an award of \$203,005.02 in compensatory damages to Plaintiffs; (3) an award of \$52,196.76 in liquidated damages to Plaintiffs; (4) an award of \$406,010.04 in punitive damages to Plaintiffs; (5) an award of \$2,500.00 in statutory damages under the Seasonal Agriculture Worker Protection Act to Plaintiff Kimberly Delgado; and (6) all other necessary relief. Mot. Entry Default J. at 3–4, ECF No. 44.

“Upon default, the well-pleaded allegations of a complaint relating to liability are taken as true.” *Dundee Cement Co. v. Howard Pipe & Concrete Prods., Inc.*, 722 F.2d 1319, 1323 (7th Cir. 1983). However, “the allegations in the complaint with respect to the amount of the damages are not deemed true.” *In re Catt*, 368 F.3d 789, 793 (7th Cir. 2004). While Magistrate Kolar did

hold a damages hearing on this matter [ECF No. 25], the Findings, Report, and Recommendation [ECF No. 32] did not make findings or a recommendation on the amount of damages because Plaintiff sought leave to file an amended complaint.

Federal Rule of Civil Procedure 55(b)(2) states that “[t]he court may conduct hearings or make referrals . . . when, to enter or effectuate judgment, it needs to: (A) conduct an accounting; (B) determine the amount of damages; (C) establish the truth of any allegation by evidence; or (D) investigate any other matter.” Fed. R. Civ. P. 55(b)(2).

For these reasons, the Motion for Entry of Default Judgment [ECF No. 44] is TAKEN UNDER ADVISEMENT. It is ORDERED that this case is referred to Magistrate Judge Joshua P. Kolar for purposes of conducting proceedings, including a damages hearing if necessary, and submitting proposed findings of fact and recommendations for the disposition of the Plaintiff’s Motion for Entry of Default Judgment [ECF No. 44], pursuant to 28 U.S.C. § 636(b)(1)(B) and N.D. Ind. L.R. 72-1(b).

SO ORDERED on August 25, 2020.

s/ Theresa L. Springmann
JUDGE THERESA L. SPRINGMANN
UNITED STATES DISTRICT COURT